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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91224932
Party	Plaintiff Sazerac Brands, LLC
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Date	06/01/2016
Attachments	Sazerac - Answer to Cancellation Counterclaims - PLATTE VALLEY FIRE-SHINE.pdf(22493 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SAZERAC BRANDS, LLC,)	
)	
Opposer/Counterclaim Respondent,)	Opposition No. 91224932
)	
v.)	Trademarks:
)	FIREBALL (Reg. No 2,852,432)
MCCORMICK DISTILLING CO., INC.,)	FIREBALL (Reg. No. 3,550,110)
)	FIREBALL & Design (Reg. No. 3,734,227)
)	UNLEASH THE DRAGON & Design
)	(Reg. No. 4,392,710)
)	
)	PLATTE VALLEY FIRESHINE (Serial No.
)	86/523,184)
Applicant/Counterclaim Petitioner.)	
)	
)	
)	

SAZERAC BRANDS, LLC’S ANSWER TO PETITIONER’S COUNTERCLAIMS

Sazerac Brands, LLC (“Sazerac”) hereby answers the Counterclaims for Cancellation (“Counterclaims”) of Sazerac’s Registration Nos. 2,852,432, 3,550,110, and 3,734,227, filed by McCormick Distilling Co., Inc. (“McCormick Distilling” or “Petitioner”), as follows.

Counterclaim 1 – Cancellation of FIREBALL Registrations

1. Sazerac lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1.
2. Admitted.
3. Sazerac admits that it is the owner of the asserted registrations for the mark FIREBALL, but denies that the marks covered by those registrations are generic.
4. Denied.

5. Sazerac denies that “liqueur, whiskey, or other alcoholic beverages” are the “genus of the goods in the FIREBALL Registrations.” Sazerac lacks knowledge or information sufficient to form a belief as to the truth of all other allegations contained in Paragraph 5 and, therefore, denies the same.

6. Sazerac admits that Exhibit 1 to the Counterclaims appears to include references to published recipes. Sazerac lacks knowledge or information sufficient to form a belief as to the truth of the other allegations in Paragraph 6 and, therefore, denies the same.

7. Denied.

8. Denied.

9. Sazerac admits that it is relying, in part, on the referenced “FIREBALL Registrations” to oppose registration by McCormick of the PLATTE VALLEY FIRESHINE mark. Sazerac lacks knowledge or information sufficient to form a belief as to the truth of the other allegations in Paragraph 9 and, therefore, denies the same.

10. **PARAGRAPH MISSING IN COUNTERCLAIMS; to the extent Paragraph 10 exists, Sazerac denies the allegations of Paragraph 10.**

Counterclaim 2 -- Abandonment

11. *(as numbered)* Sazerac incorporates by reference its responses to the allegations contained in paragraphs 1 through 10, inclusive, as if fully recited in this paragraph.

12. Paragraph 12 purports to refer to and cite Trademark Act Section 18 and various provisions of the C.F.R., which does not require an answer. Sazerac denies all other implications and allegations contained in Paragraph 12, to the extent there are any.

13. Denied.

14. Sazerac admits that its FIREBALL marks are widely used under license from Sazerac and in a fair use manner to refer to Sazerac's FIREBALL products. Sazerac denies all other allegations or implications in Paragraph 14.

15. Denied.

16. Denied.

17. Sazerac admits that it is seeking to oppose McCormick's trademark application for PLATTE VALLEY FIRESHINE. Sazerac lacks knowledge or information sufficient to form a belief as to the truth of the other allegations in Paragraph 17 and, therefore, denies the same..

AFFIRMATIVE DEFENSES

1. Petitioner fails to state a claim on which relief can be granted.

2. Sazerac presently has insufficient knowledge or information upon which to form a belief as to whether it has additional, but as-yet-unstated, affirmative defenses available. Accordingly, Sazerac hereby reserves the right to assert additional affirmative defenses in the event it determines that such defenses are appropriate.

PRAYER FOR RELIEF

WHEREFORE, Sazerac prays that the Counterclaims for Cancellation be dismissed with prejudice.

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COOLEY LLP

Date: June 1, 2016

By: /s/ Thomas M. Hadid

Thomas M. Hadid

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Respondent,

Attorneys for Opposer and Counterclaim

Sazerac Brands, LLC

CERTIFICATE OF TRANSMITTAL AND SERVICE

I hereby certify that this Sazerac Brands LLC's Answer to Petitioner's Counterclaims for Cancellation is being electronically transmitted in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated below.

I hereby further certify that on the date indicated below, a true and correct copy of this Sazerac Brands, LLC's Answer Petitioner's Counterclaims for Cancellation was placed in the United States Mail via First Class Mail, addressed to counsel for petitioner as follows:

Mr. Michael Elbein
Hovey Williams LLP
10801 Mastin Street, Suite 1000
Overland Park, Kansas 66210-1697

Date: June 1, 2016

/s/ Thomas M. Hadid
Thomas M. Hadid

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